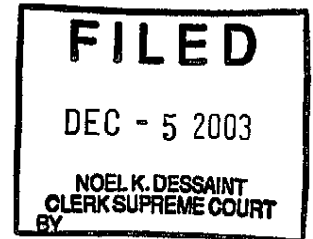


Hon. Michael K. Jeanes  
Clerk of the Superior Court in and for Maricopa County  
201 West Jefferson Street  
Phoenix, Arizona 85003  
602-506-7777



IN THE ARIZONA SUPREMECOURT

In the matter of PETITION TO AMEND	)	R-03-0012
RULE 123, Arizona Rules of the Supreme	)	
Court	)	COMMENT ON PETITION
	)	
	)	
	)	
	)	
	)	

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OPPOSITION TO PETITION TO AMEND RULE 123 OF THE ARIZONA SUPREME  
COURT RULES

The Office of the Clerk of the Superior Court for Maricopa County processes approximately 6.5 million pieces of paper each year. The Office responds to hundreds of requests for access to these and other documents each day. These requests are governed by Supreme Court Rule 123. While I support the effort behind the drive to modify Supreme Court Rule 123, I also have significant concerns about the viability of the proposed rule in its current form and oppose its adoption.

Section G (ii) of the Alternative Petition states that "Data Elements from Case Management Databases are not open to the public by remote electronic means." I oppose the rule change in its current form because Supreme Court Rule 123 does not clearly define the terms "Data Element" and "Case Management Database." While court technology professionals do not consider information contained in a document to be a "Data Element" or an image repository, to be a "Case Management Database" the legal or general public may have a different understanding of the terms and process.

If the rule change is adopted, this lack of definition could lead a member of the public to file a document with sensitive data, such as a Social Security Number, with the Clerk's Office believing that that data would not be available to the public.<sup>1</sup> Concurrently, members of the court community would not necessarily perceive that they are violating the rule by allowing the general public remote access to the electronic repository and information contained therein.

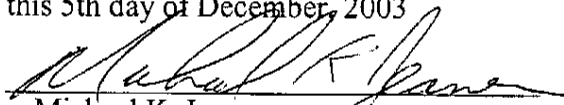
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<sup>1</sup>Using a common perception of a "Case Management Database," non-court personnel could construe an image repository (and the documents contained in it) as a Case Management Database. If an image repository constitutes a Case Management Database the images it contains could be construed as "Data Elements."

It would be advantageous to the court family, the bar and the general public to have these terms defined prior to implementing any changes to Supreme Court Rule 123.

While I respectfully urge the Court to reject these proposed changes to Rule 123, I am confident that there are ways to safely and effectively revise the rule to address privacy and other related issues. I will be happy to work with the Court to devise a solution that can be implemented successfully.

Dated this 5th day of December, 2003

  
Michael K. Jeanes  
Clerk of the Superior Court in and for  
Maricopa County

\_\_\_\_ A copy of this comment has been hand delivered this  
5th day of December, 2003, to:

Hon. Sheldon H Weisberg, Petitioner  
Chairman, Ad Hoc Committee to Study Public Access to Electronic Court Records  
Chief Judge, Arizona Court of Appeals, Division One  
1501 W. Washington  
Phoenix, Arizona 85007